

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY)	
AVERAGE WHOLESALE PRICE)	MDL No. 1456
LITIGATION)	
<hr/>		
THIS DOCUMENT RELATES TO)	CIVIL ACTION: 01-CV-12257-PBS
01-CV-12257-PBS AND 01-CV-339)	Judge Patti B. Saris
<hr/>		Chief Magistrate Judge Marianne B. Bowler

MOTION OF PLAINTIFFS FOR LEAVE TO FILE REPLY BRIEF

Pursuant to Local Rule 7.1(B)(3), plaintiffs hereby request leave to file a reply to Defendants' Opposition to Plaintiffs' Emergency Motion to Reset Certain Dates Pertaining to Class Certification. In support of this motion, plaintiffs state as follows:

1. On November 12, 2004, plaintiff filed an Emergency Motion to Reset Certain Dates Pertaining to Class Certification. Defendants filed a memorandum in opposition to this motion on November 15, 2004.
2. Plaintiffs now seek leave to file a three-page Reply Brief in support of its Motion to Reset Certain Dates Pertaining to Class Certification.
3. The motion is necessary to correct certain misstatements that are the premise of defendants' opposition. In particular, defendants' claim that there was an agreement to not turnover expert reliance data, thus the three-week delay in defendants' production of such material is justified. As explained in the reply, the exhibits cited in defendants' opposition reveal that plaintiffs promptly identified

all reliance materials when the moving class papers were filed. This data, which was from disks defendants' themselves produced, was in defendants' possession on the day the opening class papers were served. Defendants thus had the full time in the briefing schedule to respond. Defendants on the other hand still have not completed production of reliance materials and the bulk of it was produced three weeks after their opposition papers were served. These circumstances and the prejudice flowing from them is further explained in the Reply.

Wherefore, plaintiffs respectfully request that the Court grant it leave to file a reply to correctly explain the circumstances and prejudice caused by defendants' misconduct.

DATED: November 16, 2004

By /s/ Steve W. Berman

Thomas M. Sobol (BBO#471770)
Edward Notargiacomo (BBO#567636)
Hagens Berman LLP
One Main Street, 4th Floor
Cambridge, MA 02142
Telephone: (617) 482-3700
Facsimile: (617) 482-3003
LIAISON COUNSEL

Steve W. Berman
Sean R. Matt
Hagens Berman LLP
1301 Fifth Avenue, Suite 2900
Seattle, WA 98101
Telephone: (206) 623-7292
Facsimile: (206) 623-0594

Eugene A. Spector
Jeffrey Kodroff
Spector, Roseman & Kodroff, P.C.
1818 Market Street, Suite 2500
Philadelphia, PA 19103
Telephone: (215) 496-0300
Facsimile: (215) 496-6611

Samuel Heins
Heins, Mills & Olson, P.C.
3550 IDS Center
80 South Eighth Street
Minneapolis, MN 55402
Telephone: (612) 338-4605
Facsimile: (612) 338-4692
**CHAIRS OF LEAD COUNSEL
COMMITTEE**

Marc H. Edelson
Allen Hoffman
Hoffman & Edelson
45 West Court Street
Doylestown, PA 18901
Telephone: (215) 230-8043
Facsimile: (215) 230-8735

Kenneth A. Wexler
The Wexler Firm
One North LaSalle Street, Suite 2000
Chicago, IL 60602
Telephone: (312) 346-2222
Facsimile: (312) 346-0022
**MEMBERS OF LEAD COUNSEL
COMMITTEE AND EXECUTIVE
COMMITTEE**

CERTIFICATE OF SERVICE

I hereby certify that I, Steve W. Berman, an attorney, caused a true and correct copy of the foregoing **MOTION OF PLAINTIFFS FOR LEAVE TO FILE REPLY BRIEF** to be delivered to all counsel of record by electronic service pursuant to Paragraph 11 of the Case Management Order No. 2, by sending on November 16, 2004 via Verilaw to Defendants.

By /s/ Steve W. Berman
Steve W. Berman
Hagens Berman, LLP
1301 Fifth Avenue, Suite 2900
Seattle, WA 98101
Telephone: (206) 623-7292
Facsimile: (206) 623-0594